

129 FERC ¶ 61,185  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 30, 2009

In Reply Refer To:  
Commonwealth Edison Company  
Docket No. ER10-16-000

Sidley Austin LLP  
701 Fifth Avenue, Suite 4200  
Seattle, WA 98104

Attention: Stan Berman  
Attorney for Commonwealth Edison Company

Reference: Revisions to Wholesale Distribution Charge

Dear Mr. Berman:

1. Pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> on October 1, 2009, Commonwealth Edison Company (ComEd), on behalf of itself and its wholly-owned subsidiary, Commonwealth Edison of Indiana, Inc., filed a revised Attachment H-13<sup>2</sup> (Network Integration Transmission Service for the ComEd Zone) of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (OATT).<sup>3</sup> ComEd states that the revised tariff sheets modify Attachment H-13 to provide that ComEd will not assess Wholesale Distribution Charges (WDCs) to generators connected to the

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> Seventh Revised Sheet No. 314A.01 to PJM Interconnection, L.L.C. FERC Electric Tariff, Sixth Revised Volume No. 1

<sup>3</sup> The facilities of Commonwealth Edison Company of Indiana, Inc. are included in the ComEd pricing zone. There are no other transmission owners within the ComEd pricing zone.

ComEd distribution system who are delivering power for transmission elsewhere on the grid. ComEd states that it will continue to establish Distribution Loss Factors (DLFs) for all wholesale users of the ComEd distribution system including generators. Finally, ComEd states that these revisions do not affect the WDCs that will continue to be assessed to load-serving customers who take wholesale transmission service over the ComEd distribution system. In this order, the Commission accepts for filing ComEd's revised Attachment H-13 under PJM's OATT, to become effective on December 1, 2009.

2. ComEd proposes to revise its methodology for charging for wholesale distribution service over ComEd's wholesale distribution facilities.<sup>4</sup> Specifically, ComEd has determined that it is appropriate to distinguish load-serving entities from generators when assessing WDCs.<sup>5</sup> ComEd states that distribution-level generators will no longer be assessed a WDC based on their pro-rata share of net distribution plant, but that such generators will continue to be assessed charges for interconnection costs or other incremental costs associated with the service, as well as continuing to be responsible for losses they create, based on the Commission-approved methodology which considers the expected impact on the system.<sup>6</sup> ComEd states that, through the proposed revisions, it recognizes the benefit that is frequently provided by distribution level generation, but holds others harmless in those instances where the generator imposes a cost on the system. Finally, ComEd states that the proposed revisions to the calculation of the WDCs will reduce the WDC for one of its customers, Winnebago Energy Center LLC (Winnebago), to zero, as Winnebago has been assessed a charge based on the maximum net output of its generating units. ComEd states that the WDCs for other ComEd customers taking wholesale distribution service are assessed based upon their non-coincident peak loads and will not be affected by ComEd's proposed revision.

3. Notice of ComEd's filing was published in the *Federal Register*, 74 *Fed. Reg.* 52,480 (2009), with interventions, comments, and protests due on or before October 22, 2009. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Winnebago filed a motion to intervene and comments.

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<sup>4</sup> Letter Order Accepting Commonwealth Edison Co's filing of revised Attachment H-13, Docket No. ER06-1194 (Aug. 15, 2006).

<sup>5</sup> ComEd states that, due to forecasts of an increased amount of wholesale distributed generation from renewable resources on ComEd's system, ComEd recently conducted studies which demonstrate that reverse flows from these generators may benefit ComEd's system by reducing congestion and line loading in some conditions.

<sup>6</sup> *Commonwealth Edison Co.*, 123 FERC ¶ 61,122 (2008).

PJM filed a motion to intervene. ComEd filed a motion for leave to respond and response to motion to intervene and comments of Winnebago.

4. Winnebago states that it supports elimination of the WDC currently assessed on Winnebago for the reasons articulated by ComEd in its filing. However, Winnebago notes that ComEd, in its filing, fails to: (1) address the level of DLFs still applied; and (2) seek waiver of the sixty-day prior notice requirement so that the charges can be removed by October 2, 2009.

5. Winnebago argues that ComEd's 2.52 percent DLF on power from the Winnebago facility remains excessive. Winnebago states that, in its March 27, 2008 protest to ComEd's response to the Commission's deficiency letter in Docket No. ER08-358-001, Winnebago argued many of the same points that appear relevant now that: (1) the DLF was disproportionately high as compared to other loss factors applied by ComEd; (2) there may be some double collection of losses based on the operation of the distribution system; and (3) the information provided by ComEd in response to the deficiency letter showed that ComEd's analysis was flawed in that ComEd ignored the positive changes to power flow that results from the addition of Winnebago's facility to the ComEd system.

6. Winnebago further argues that good cause supports the waiver of the Commission's sixty-day prior notice requirement in ComEd's filing. Winnebago states it has been paying the WDC charge for nearly two years despite its contention that the WDC charge is not justified. Second, since ComEd now seeks to eliminate the charges, the rate elimination should go into effect immediately. Winnebago states that to do otherwise would allow ComEd to collect a rate that is not cost-based and justified. Winnebago requests that the Commission accept removal of the WDC and require ComEd to explain why DLFs are not similarly subject to adjustment.

7. ComEd responds that, while the Commission has the discretion to grant waiver of the sixty-day prior notice requirement upon application and a showing by the utility, neither the statute nor the Commission's regulations require that a utility request waiver of the statutory requirement. ComEd also states that the filed-rate doctrine and the prohibition against retroactive ratemaking together bar the Commission from making the proposed transmission service rates effective earlier than the date proposed by ComEd -- December 1, 2009. ComEd states that Winnebago's arguments regarding the DLFs are outside the scope of this proceeding, and if Winnebago wishes to dispute the Commission-approved DLF methodology, then the proper procedure is for Winnebago to file a complaint under section 206 of the FPA. Further, ComEd believes that Winnebago's arguments regarding the DLF methodology are inadmissible because they are a collateral attacks on the Commission's order in Docket No. ER08-358.

8. ComEd's filing states that it recently conducted studies which demonstrate that reverse flows from renewable generators may benefit ComEd's system by reducing congestion and line loading in some conditions. ComEd states that it recognizes the benefit that is frequently provided by wholesale distribution level generation. The Commission accepts for filing ComEd's revised Attachment H-13 under PJM's OATT, to become effective on December 1, 2009. Winnebago requests that the Commission waive notice of ComEd's proposed changes to make the filing effective earlier. This request is denied because under section 205 of the FPA, the utility proposes the time at which its proposed change will go into effect. Winnebago has raised a concern regarding the DLF charge. In this proceeding, ComEd proposes a change to the WDC. Issues regarding the DLF charge therefore are outside the scope of this proceeding.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.